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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,611	03/06/2002	Friedrich Reiter	225/50657	4958

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EXAMINER

FLEMING, FAYE M

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 07/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/090,611

Applicant(s)

REITER ET AL.

Examiner

Faye Fleming

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 11-21 is/are rejected.
- 7) ☒ Claim(s) 5-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other:

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**DETAILED ACTION**

***Acknowledgments***

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Information Disclosure Statement***

2. The information disclosure statement filed March 6, 2002 has been entered and acknowledged.

***Preliminary Amendment***

3. The preliminary amendment filed March 6, 2002 has been entered and acknowledged.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 12, 14, 15, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Zimmerman (6,126,196).

Zimmerman discloses a safety device for a motor vehicle comprising a gas generator (not shown); an airbag 10 connected to be filled by the gas generator in the event of an accident; and an orifice 40, through which gas can flow and a flow resistance of which is variable; wherein the orifice is duct shaped in a partial region; and the flow

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resistance of the duct-shaped partial region adjusts automatically as a function of flow velocity of gas flow flowing through the orifice. The flow resistance of the orifice increases with increasing flow velocity of the gas flow flowing through the orifice. The flow resistance of the orifice decreases with decreasing flow velocity of the gas flow emerging through the orifice. The side walls of the duct-shaped partial region have inner surfaces including a specific surface configuration. The orifice is formed in the airbag. The orifice is arranged in a region of a connecting element 20 between the gas generator and the airbag. The behavior and a flow path of the safety device are adjustable as a function of a direction of gas flow. Regarding claim 20, the method has been disclosed by Zimmerman as described above.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4, 11, 13, 16, 17, 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmerman (6,126,196) in view of Matsui, et al (3,861,712).

Zimmerman discloses the claimed invention except for an orifice formed in the gas generator. Matsui, et al discloses a safety device for a motor vehicle comprising a gas generator 17; an airbag 10 connected to be filled by the gas generator in the event of an accident; and first orifice 16 and second orifice 18, through which gas can flow; wherein the orifice is duct shaped. The orifice 16 is formed in the gas generator, which

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ensures minimum leakage provided in the orifice. The second orifice has an essentially constant size. Based on the teachings of Matsui, et al, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the safety device of Zimmerman to have an orifice formed in the gas generator to provide a closure member and to modify the safety device to have an additional orifice to provide an additional exhaust tube and/or duct. With respect to claims 4, 11, and 21, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the duct-shaped partial region made of elastic causing the side walls of the duct-shaped region to be gas-permeable, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice and the selected material would not change the function of the design.

### ***Allowable Subject Matter***

8. Claims 5-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

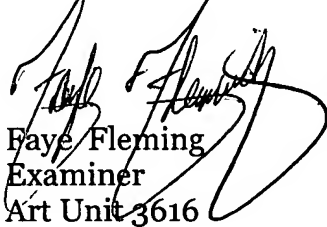
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Notice of References Cited list references disclosing some features in common with the present invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Fleming whose telephone number is (703) 305-0209. The examiner can normally be reached on M-F (9:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-2571 for regular communications and (703) 308-2571 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

 06/29/03  
Faye Fleming  
Examiner  
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